IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 1806 of 1999

For Approval and Signature:

Hon'ble MR.JUSTICE C.K.THAKKAR

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

SAROJBEN BHARATBHAI PATEL

Versus

JOINT CHARITY COMMISSIONER

Appearance:

MR UM SHASTRI for Petitioner

Ms Siddhi Talati, AGP for respondent No.1.

CORAM : MR.JUSTICE C.K.THAKKAR

Date of decision: 27/03/2000

ORAL JUDGEMENT

This petition is filed against an order passed by the Charity Commissioner under Section 36 of the Bombay Public Trusts Act, 1950 (hereinafter referred to as `the Act').

The order is dated 8th March, 1999. Petition is filed on 11th March, 1999.

Now, under sub-section (3) of Section 36 of the Act, any person aggrieved by a decision of the Charity Commissioner may file an appeal before the Revenue Tribunal within thirty days from the date of publication. Apart from the date of publication, even if the date of order under challenge is taken, it appears that the petitioner has approached this Court on 11th March, 1999 and the date of the order is 8th March, 1999.

In my opinion, when a statutory remedy is available under the Act, it would not be advisable to exercise extraordinary jurisdiction under Article 226/ 227 of the Constitution. Only on that ground and without observing anything on merits,the petition is required to be disposed of . Notice is discharged. No order as to costs. It is,however, clarified that when the petition is disposed of only on the ground of availability of alternative remedy, the appellate authority will not consider any observations made by me hereinabove as touching the merits of the matter and as and when appeal will be placed for hearing, it will be decided on its own merits. It is directed that if such appeal is filed on or before 17th April, 2000, the Revenue Tribunal will entertain the same without raising any objection as to limitation. Direct service permitted.

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parekh